Consultation Response

Financial Conduct Authority consultation: Regulatory fees and levies: policy proposals 2014/15

Comments from StepChange Debt Charity

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Introduction

StepChange Debt Charity is the new name for the Consumer Credit Counselling Service (CCCS). StepChange is a leading provider of independent debt advice and the country's only major charitable provider of free-to-client debt management plans (DMPs).

Last year, we helped over 400,000 people with problem debts. The advice and support we provide is always free, independent and impartial. In 2012, the charity helped clients to repay just under £307 million. We currently manage over £3.7 billion worth of unsecured problem debt.

Consumer credit encompasses a wide range of lenders and products catering to very different markets. We see the disproportionate problems that people experience with some products and lenders, and can only foresee that the new regulatory system will spend disproportionate resource monitoring and dealing with issues related to these high risk products and providers.

In particular, we see a disproportionately high volume of clients with payday loans, catalogue debts and debts owed to doorstep lenders.

There is an opportunity with the transfer of regulation of consumer credit lenders to the FCA to ensure that the new regulator and associated bodies have adequate resources to carry out their regulation and enforcement of consumer credit regulation, and that there is adequate provision of vital free debt advice to help people struggling with debt.

We believe the FCA should adopt two general principles in how they set fees for the coming years:

- A wider, and more challenging regulatory remit requires wider funding – the FCA should use the levy and fees to ensure sufficient resources for it to carry out effective supervision of firms, and for vital free debt advice.
- The amount of levy and fees that firms pay should be determined by the detriment and level of problems associated their products.

Overall, we welcome the proposal to take into account the consumer detriment and regulatory burden that higher risk firms create - through fees and levies based on data that indicates the risk posed by products and firms. However, we question whether 'write off' data fully covers all firms that require more intensive oversight for the FCA or have a particularly negative impact on consumers.

First, the proportion of write offs on a firm's books is more likely to reflect more established companies who've been lending for longer and have more debts at the stage where they consider writing them off. This definition may not capture newer

firms, offering complex and potentially detrimental products that may require more supervision and put more pressure on debt advice agencies.

Secondly, not all firms who offer complex and detrimental products and have potentially detrimental conduct will write off loans as a matter of course. Aggressive and lengthy debt collection and management practice can lead to high levels of detriment, putting a strain on the FCA's supervision and on free debt advice providers. If firms use these aggressive measures but do not write-off debt so readily, they will not contribute a fair level of funding for the supervision and debt advice needs their practices create.

Using write off data could therefore create a perverse incentive for firms keen to lower the level of fees and levies they pay, by encouraging lengthy and aggressive debt collection practices, but avoiding writing off so many loans.

We would urge the FCA to consider incorporating other metrics for establishing which firms should pay higher contributions to reflect the disproportionate supervision and debt advice required by some firms. We believe that a more rounded set of data, including complaints to the Financial Ombudsman Service, intelligence from debt advice providers and default rates in relation to lending volumes, would be a more robust and harder to game indicator of where firms' practices and products require disproportionate resource from regulators and free debt advice agencies.

Beyond this, we question whether two broad categories provides sufficient nuance to charge fairly for the costs of dealing with some particularly poor firms. We believe that a third category for extremely detrimental, high risk firms should be charged higher fees and levies to reflect the FCA's disproportionate supervision and provide sufficient resource for free debt advice.

We will respond to the consultation from this viewpoint.

Q1: Do you agree with our proposals for consumer credit application fees?

The proposal outlines application fees are subject to different levels of fee depending on the complexity of the firm, with payday lenders and other high risk providers in the 'complex' category, paying approximately £10,000. The nuance in the different categories is welcome, recognising the additional regulatory demands these kinds of firms pose.

Q2: Do you agree with our proposed charge of £3,500 per type of agreement submitted for a consumer credit validation order?

StepChange Debt Charity has no comment at this time.

Q3: Do you agree with our proposed structure for periodic (annual) fees for consumer credit firms?

We question whether the two tier structure, based on income, provides significant enough nuance to capture the cost of regulating different industries. Industries or firms which have particularly high incidence of defaults, complaints, consumer detriment associated with their products, such as payday lenders, will likely have a more significant impact on the resource of the regulator per £1000 of turnover.

We would therefore encourage the FCA to consider introducing a third tier to ensure that the most detrimental and high risk lenders are paying a fee that is proportionate to their ongoing regulatory demands.

Q4: Do you have any comments on our draft definitions of consumer credit income and proposals for reporting the data?

We believe firms should provide information on sources of income from fees, charges and interest, as an indication of the kind of sources of income they receive. This would help highlight where income is derived from practices linked to consumer detriment.

Q5: Do you have any comments on our proposed concessions on consumer credit fees for businesses with social objectives?

The FCA’s definition to support the concession on fees for not for profit debt advice providers is currently unclear. The text at 2.56 – 2.58 seems to suggest that not for profit debt advice agencies which are associated with ‘non not for profit’ bodies should not receive the concession on fee. We will write separately to the FCA seeking further clarity on the implications for providers that fit this description.

Q6: Do you have any comments on our proposed approach to the ombudsman service levy for consumer credit firms?

We agree with the proposed approach to the ombudsman service levy for consumer credit firms.

Q7: Do you have any comments on our proposed approach to the Money Advice Service levy for consumer credit firms?

Consistent with our view on fees to fund the regulator, we believe that fees should reflect the burden and resource that high risk firms place on the Money Advice Service in addition to the income of the firm.

This is particularly important for the Money Advice Service, which provides £30m funding to provide free debt advice. Debt advice agencies see a disproportionate number of clients using certain products from certain firms, due to a greater likelihood of detriment from the design of the product, the way that they've been sold, and the conduct of the firm.

It is vital for the funding for debt advice is boosted by new Money Advice Service levy payers, rather than more levy-payers paying less. We believe that the overall funding for debt advice should be increased by an additional levy, calculated based on high risk firms who have a disproportionate strain on free debt advice resources compared to their lending volumes.

Q8 Do you have any comments on our proposal to create a new fee-block for firms holding client money or assets or both?

StepChange Debt Charity has no comment at this time.

Q9: Do you have any comments on our redrafted definitions of income for fee-blocks A13, A14, A18 and A19?

StepChange Debt Charity has no comment at this time.

Q10: Do you agree with our proposed annual maintenance charge for approved reporting mechanisms (ARMs)?

StepChange Debt Charity has no comment at this time.

Q11: Do you agree with our proposal to require application fees to be paid by credit or debit card?

StepChange Debt Charity has no comment at this time.

Q12: Do you agree with our proposed amendment to the FCA financial penalty scheme?

StepChange Debt Charity has no comment at this time.

Q15: Do you agree that we should use the three component approach, evenly allocated, of using consumer-usage data, the five Money Advice Service outcomes and a levy based on our own allocation for 2013/14 to allocate money advice costs to fee-blocks? If not, please give your reasons and suggest an alternative.

Q16: Do you agree with how the consumer-usage data has been mapped to Money Advice Service fee blocks? If not, please give your reasons and suggest an alternative.

Q17: Do you agree with how the consumer outcomes have been mapped to Money Advice Service fee-blocks? If not, please give your reasons and suggest an alternative.

Our specialist expertise is in the provision of debt advice, so we have no comments to make on the formulae for money advice at this time.

Q18: Do you agree that debt advice costs should take account of both total lending and write off levels, on a 50% basis for each, and mapped to A1 and A2 fee blocks? If not, please give your reasons and suggest an alternative.

As highlighted in the introduction, we welcome that the FCA is proposing higher risk firms should contribute disproportionately to the funding of free debt advice.

However, as we argue in the introduction, write off data alone is unlikely to capture the full range of firms that require additional supervision or present a disproportionate strain on free debt advice providers. Furthermore, a levy based on write off data could present incentives to firms to pursue aggressive debt collection practices instead of write offs.

As such, we urge the FCA to develop a more rounded metric for calculating fees. We recommend including write off levels with disproportionate debt advice cases and Financial Ombudsman Service complaints.

Furthermore, as we argue in the introduction, we believe that there needs to be sufficient upward flexibility in the fees to allow firms with the highest level of write offs, FOS complaints and debt advice cases to pay a higher levy towards debt advice provision.